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352530

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ART. UNIT	PAPER NUMBER
07/352,530	05/15/89	FABBIO	2301	8

JANKUS, EXAMINER

WAYNE P. BAILEY
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ART. UNIT	PAPER NUMBER
2301	8

DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 10/24/91 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152 |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-27 are pending in the application.
Of the above, claims NONE are withdrawn from consideration.
2. ☐ Claims have been cancelled.
3. ☐ Claims are allowed.
4. ☒ Claims 1-27 are rejected.
5. ☐ Claims are objected to.
6. ☐ Claims are subject to restriction or election requirement.
7. ☐ This application has been filed with Informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. ; filed on
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

Serial Number 352530

Art Unit 2301

1. Applicants amendment of 10/24/91 has been considered in preparing this office action.

2. The text of those sections of Title 35, US Code not included in this action can be found in a prior office action.

3. Claim 27 stands rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

At pages 3-4 of the amendment, applicant argues that as a computer program residing on a computer compatible medium is a good, it is similarly an article of manufacture which falls under the gamut of allowable subject matter under 35 U.S.C. 101.

Non-statutory subject matter cannot be automatically converted into statutory subject matter merely by broadly labeling the claim as an article of manufacture or by drafting the claim with token references to something that is statutory

subject matter, such as "computer compatible medium"; this form of draftsmanship would amount to elevating form over substance.

4. Claims 1-27 stand rejected under 35 U.S.C. 103 as being unpatentable over Beck et al.

Applicant argues that claims in an application are to be given their broadest reasonable interpretation consistent with the specification. However, if applicant wishes to rely on the more specific interpretation, then it must be reflected in the claim language. Meanwhile, the examiner maintains that his interpretation of the claim language is reasonable; and the claims are rendered obvious by the cited reference.

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

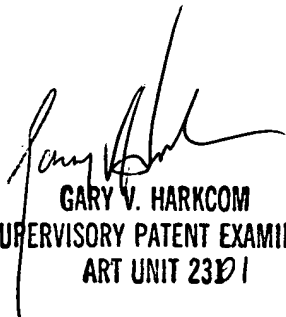
A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CFR 1.136(a) WILL BE CALCULATED FROM THE MAILING

DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Almis Jankus whose telephone number is (703)308-2879. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-0754.

AJ

January 10, 1992


GARY V. HARKCOM
SUPERVISORY PATENT EXAMINER
ART UNIT 2301